

DAVID BURCHARD
CHAPTER 13 TRUSTEE
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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

In re:
JOHN M MARTINEZ and CORINA J
MARTINEZ-ZAVALETA
36 GOLDEN GATE CR
NAPA, CA 94558

####-##-6954 ####-##-7459
Debtor(s).

Case No.: 10-1-4260AJ13
Chapter 13

NOTICE BY DAVID BURCHARD, CHAPTER 13
TRUSTEE, OF CHAPTER 13 PLAN DEFICIENCIES

341 MEETING OF CREDITORS:

Date: 12/14/2010
Time: 2:00 PM
Place: Office of the United States Trustee
777 Sonoma Ave., First Floor, #116
Santa Rosa, CA 95404

CONFIRMATION HEARING:

Date: 1/12/2011
Time: 1:30 PM
Place: United States Bankruptcy Court
99 South E Street
Santa Rosa, CA 95404

DAVID BURCHARD, Chapter 13 Trustee in the above-entitled action, cannot recommend Confirmation of the Chapter 13 Plan proposed hereunder by Debtor(s) for the following reason(s).

1. The Trustee is in receipt of various payment advices from Debtors', however, they appear to be incomplete. The Trustee requests that Debtors' counsel provide advices for the months of May 2010 through October 2010.
2. The Debtors' plan is not proposed in good faith, and therefore, not confirmable, given that it only provides for payment of attorney's fees and seeks to avoid the lien of secured creditors. The Trustee believes that this case is essentially a disguised Chapter 7 filing and that this plan should not be confirmed.
3. Paragraph 4C of Debtors' plan reflects a direct monthly payment to Nissan-Infiniti Lt, however, Paragraph 4C is specifically designated for real property, and this debt is clearly secured by personal property. The Trustee requests that Debtors' counsel amend the plan and omit this creditor from Paragraph 4C.
4. Paragraph 11 of the Debtors' plan indicates the liens on the Debtors' real property held by Bank of America shall be voided. The Trustee requests that Debtors' Notice and Motion to Avoid Lien be filed and resolved prior to confirmation.

5. Paragraph 11 of the Debtors' plan indicates the lien on the Debtors' real property held by Wells Fargo Bank Nv Na shall be voided. The Trustee requests that Debtors' Notice and Motion to Avoid Lien be filed and resolved prior to confirmation.
6. Schedule I reflects monthly income of \$1,650.00 from "Income from real property". The Trustee requests verification of this said monthly income.
7. Question 3 of Form B22C reflects income received in the 6 months prior to the filing of bankruptcy; however, Statement of Financial Affairs fails to provide that Debtors' were self-employed. The Trustee requests clarification.
8. Form B22C, line 3B, deducts the Debtors' ordinary and necessary business expenses from the Debtors' gross receipts. Trustee requests an amended Form B22C that lists the Debtors' ordinary and necessary business expenses in line 57.
9. Schedule I reflects Debtors' are separated with two dependents as also reflected on Debtors' 2009 tax return; however, Debtors' Form B22C Question 16 reflects Debtors' household size as 6. The Trustee requests clarification, or that the appropriate documents be amended so that they are accurate and consistent.
10. Debtors' have provided for a deduction for Transportation expense in the amount of \$496.00 in Question 28 of Form B22C, while listing no expense for Debtors' vehicle in the schedules. Pursuant to 11 U.S.C. Section 707(b)(2), the Debtor may only claim this deduction if they have an expense of the vehicle. The Trustee requests that Debtors' counsel amend Form B22C and omit this deduction.
11. Schedule J reflects a monthly expense of \$729.00 for "Auto". The Trustee requests clarification and verification of this said monthly expense.
12. Schedule A reflects the value of Debtors' real property located at 341 White Cottage Rd North, Angwin, California as \$595,000.00. Trustee requests verification of how Debtors' arrived at this value.
13. Schedule F lists an obligation to St. Helena Hospital, which has the amount of claim listed as "unknown." The Trustee is unable to total debts in the absence of this figure.

PLEASE TAKE NOTICE that, without prior notice, at the above-referenced confirmation hearing date assigned to your Chapter 13 case, the Court may DISMISS the above-referenced case upon making a determination that Debtor(s) has/have not presented a feasible Plan, Debtor(s) has/have not made the required payments under the Plan, Debtor(s) has/have violated the statutory debt limitations set for a Chapter 13 case, Debtor(s) has/have not filed this proceeding in good faith, Debtor(s) has/have not provided documents and/or Schedules and Plan as required under the Bankruptcy code, and/or Debtor(s) has/have not provided the Trustee with Payment Advices or Declarations.

Dated: December 7, 2010

DAVID BURCHARD

DAVID BURCHARD, Chapter 13 Trustee

Certificate of Mailing

I, WENDY KARNES, the undersigned, certify that:

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 393 Vintage Park Drive, Suite #150, Foster City, CA. On the date set forth below, I served a copy of the NOTICE BY DAVID BURCHARD, CHAPTER 13 TRUSTEE, OF CHAPTER 13 PLAN DEFICIENCIES, and this Certificate of Mailing, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

341 WHITE COTTAGE RD NORTH
36 GOLDEN GATE CR
NAPA, CA 94558

DANIEL B. BECK
BECK LAW, P.C.
2681 CLEVELAND AVE.
SANTA ROSA, CA 95403

CORINA J MARTINEZ-ZAVALET
United States Trustee
235 Pine Street, Suite 700
San Francisco, CA 94104

Dated: December 7, 2010

WENDY KARNES

WENDY KARNES (NSJ)